

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUAI

NOTICE OF PUBLICATION AND NOTICE OF PUBLIC HEARING

Notice is hereby given that the Council of the County of Kaua'i will hold a public hearing on Wednesday, April 23, 2014, at 1:30 p.m., or soon thereafter, at the Council Chambers, 4396 Rice Street, Room 201, Historic County Building, Lihue, on the following:

Bill No. 2539

A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. PM-2004-370, AS AMENDED BY ORDINANCE NO. PM-2010-400, AND ORDINANCE NO. PM-2005-374, RELATING TO THE KUKUI'ULA WORKFORCE HOUSING

This Bill proposes to amend Ordinance No. PM-2004-370, as amended by Ordinance No. PM-2010-400, by amending Condition No. 19, and amending Ordinance No. PM-2005-374 by inserting a new Condition No. 10, relating to the Kukui'ula Workforce Housing. Kukui'ula Development Company (Hawaii), LLC ("KDC"), and the Kaua'i County Housing Agency are co-applicants. The amendment provides for the conveyance of 11.204 acres designated as Tax Map Key (TMK) (4)2-6-004-019 to the County, at which time Condition No. 19 and Condition No. 10, as noted previously, will no longer apply to KDC after fulfilling obligations as contained in the Bill.

All interested persons who wish to present their comments may do so at the public hearing. Written testimony prior to the hearing would be appreciated. Copies of the proposed Bill are available at the Office of the County Clerk, Council Services Division.

(The Council Committee or Council may amend this Bill at its subsequent meetings. Meeting notices are posted at least six (6) days in advance at the County Clerk's Office and the public may also testify at any of these meetings.)

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that the foregoing Bill No. 2539 was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on March 27, 2014, by the following vote:

AYES:	Bynum, Chock, Hooser, Kagawa, Yukimura, Furfaro	TOTAL – 6,
NOES:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Rapoza	TOTAL – 1.

Lihue, Hawaii
March 28, 2014

/s/ Ricky Watanabe
County Clerk, County of Kaua'i

NOTE: SPECIAL ACCOMMODATIONS AND SIGN LANGUAGE INTERPRETER AND INTERPRETERS FOR NON-ENGLISH SPEAKING PERSONS ARE AVAILABLE UPON REQUEST FIVE (5) DAYS PRIOR TO THE MEETING DATE TO THE COUNTY CLERK, 4396 RICE STREET, SUITE 209, LIHU'E, KAUAI, HAWAII 96766. TELEPHONE NO. (808) 241-4188. FACSIMILE NO. (808) 241-6349.

(One publication – The Garden Island – April 3, 2014)

ORDINANCE NO. _____

BILL NO. 2539

**A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. PM-2004-370,
AS AMENDED BY ORDINANCE NO. PM-2010-400, AND ORDINANCE
NO. PM-2005-374, RELATING TO THE KUKUI'ULA WORKFORCE
HOUSING**

(Kukui'ula Development Company (Hawai'i), LLC and
Kaua'i County Housing Agency, Applicants)

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE
OF HAWAII:

SECTION 1. Findings and Purpose. The purpose of this Bill is to amend Condition No. 19 of Ordinance No. PM-2004-370, as amended by Ordinance No. PM-2010-400, and Ordinance No. PM-2005-374, as recommended by the Kaua'i County Housing Agency ("County") in coordination with Kukui'ula Development Company (Hawai'i), LLC ("KDCH").

KDCH received zoning approval of an approximately 1,010 acre planned community pursuant to Ordinance No. PM-2004-370, as amended by Ordinance No. PM-2010-400 (collectively, "Amended Ordinance No. PM-2004-370").

Condition No. 19 of Amended Ordinance No. PM-2004-370 provides that KDCH will commence construction of a minimum of seventy-five (75) housing units, as described below, no later than four (4) years from the date of the enactment of Ordinance No. PM-2004-370 unless the Planning Department extends such deadline. KDCH will develop said housing units for first-time Kaua'i home buyers who are between 80% and 180% of the Kaua'i Median Income, and are employees of the KDCH development project or are employed within the County of Kaua'i.

The deadline to commence construction has been extended to July 28, 2015, and the County does not desire to grant a further extension thereof due to the ongoing need for affordable housing.

KDCH and the County executed an Agreement on November 4, 2005, setting forth the requirements for implementation and satisfaction of the employee housing condition. The Agreement was further amended by KDCH and the County by instrument dated August 9, 2011, to reflect the amendments to Ordinance No. PM-2004-370 pursuant to Ordinance No. PM-2010-400 (as amended, the "Housing Agreement").

Pursuant to Condition No. 19, KDCH obtained approvals for the re-designation of a 9.442-acre portion of the approximately 11.204-acres designated by Tax Map Key No. (4) 2-6-004-019 ("Property") from State "Agricultural" Land Use District to "Urban" Land Use District. This re-designation is reflected in Ordinance No. PM-2005-373. Ordinance No. PM-2005-374 re-zoned the 8.372-acre portion of the Property from "Open District (O)" to "Residential District (R-20)." Ordinance No. PM-2005-374 also imposed certain conditions in connection with the rezoning, including conditions precedent to further subdivision and development of the Property.

The County acknowledges the need for permanently affordable workforce housing, especially in job centers where high housing cost is prevalent, such as resort areas.

The County is working with KDCH to provide permanently affordable workforce housing and the parties have agreed that, in lieu of the performance of KDCH's obligations pursuant to Condition No. 19, the following conditions precedent (the "Dedication Conditions") shall be completed: KDCH shall dedicate or cause the dedication of the Property to the County; the County shall accept said dedication of the Property; KDCH shall complete certain infrastructure improvements for the Property; and KDCH shall provide the County with fill material for grading of the Property. Upon the completion of all Dedication Conditions, all obligations of KDCH (as "Applicant" under Ordinance No. PM-2004-370) set forth in Condition No. 19 and the Housing Agreement will be satisfied or deemed satisfied.

The Hawai'i Housing Finance and Development Corporation's Housing Planning Study for 2011 found that the County of Kaua'i will require 1,312 affordable housing units through the end of 2016, with the vast majority of those units (925 units representing 71%) needed for families below 80% of Kauai's Median Income.

KDCH's completion of the Dedication Conditions will provide the land and off-site infrastructure for the County to develop up to 150 affordable/workforce housing units that more appropriately address the housing needs of Kaua'i's citizens.

The ownership of such entitled land will provide the County an opportunity to develop affordable/workforce housing that shall remain affordable for as long as the County desires, rather than the finite period applicable to KDCH.

KDCH has satisfied the following requirements of Condition No. 21 of Amended Ordinance No. PM-2004-370: the donation to the County of four (4) acres of land at Pa'anau Village (complete with all entitlements), the completion of a storm drainage interceptor ditch, the grant of easement to the County for a sewer line between the 4-acre parcel and Kukui'ula's wastewater system, the completion of the extension of Pa'anau Road providing access to the 4-acre parcel, and the installation of free sewer hook-ups to Kukui'ula wastewater system.

SECTION 2. Condition No. 19 of Amended Ordinance No. PM-2004-370 is hereby amended to add the following:

"m) Notwithstanding any other provision to the contrary in Ordinance No. PM-2004-370 and Ordinance No. PM-2010-400, upon the conveyance of approximately 11.204 acres designated by Tax Map Key No. (4) 2-6-004-019 ("Property") to the County and the Applicant's completion of the following actions, Condition No.19 of Ordinance No. PM-2004-370, as amended by Ordinance No. PM-2010-400, shall no longer apply to the Applicant (with all other provisions remaining in full force and effect) and Applicant shall have no further obligations thereunder:

(1) Applicant will design, provide, and dedicate power, communications, water (source, storage, and transmission) and sewer infrastructure to the Property for up to one hundred fifty (150) housing units by September 2016. Applicant will provide the County with a

performance bond equal to or greater than the total cost of such infrastructure improvements within twelve (12) months from the effective date of this Ordinance;

(2) Applicant will place the overhead electric power line traversing the Property underground. Alternatively, the Applicant may relocate the power line off of the Property. The County must first approve any action on the part of the Applicant regarding placement of the power lines and justification thereof; and

(3) Applicant will provide the County with construction grade fill material that is appropriate for the development of the Property at no charge to the County; provided, however, that the County will be responsible for the cost of loading and hauling the fill material to the Property. The location from which the fill material will be taken shall not be located more than five (5) miles from the Property unless approved by the County.”

SECTION 3. Ordinance No. PM-2005-374 is hereby amended to add the following:

“10. Notwithstanding any other provision to the contrary in Ordinance No. PM-2005-374, upon the conveyance of approximately 11.204 acres designated by Tax Map Key No. (4) 2-6-004-019 (“Property”) to the County and the Applicant’s completion of the following actions, Ordinance No. PM-2005-374 shall no longer apply to the Applicant and Applicant shall have no further obligations thereunder:

(1) Applicant will design, provide, and dedicate power, communications, water (source, storage, and transmission) and sewer infrastructure to the Property for up to one hundred fifty (150) housing units by September 2016. Applicant will provide the County with a performance bond equal to or greater than the total cost of such infrastructure improvements within twelve (12) months from the effective date of this Ordinance;

(2) Applicant will either place the overhead electric power line traversing the Property underground or, if possible, relocate the power line off of the Property. The County must first approve any action on the part of the Applicant regarding placement of the power lines and justification thereof; and

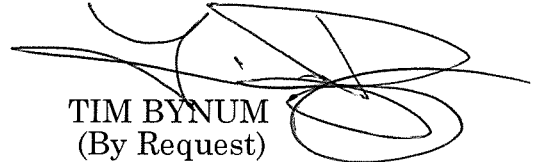
(3) Applicant will provide the County with construction grade fill material that is appropriate for the development of the Property at no charge to the County; provided, however, that the County will be responsible for the cost of loading and hauling the fill material to the Property. The location from which the fill material will be taken shall not be located more than five (5) miles from the Property unless approved by the County.”

SECTION 4. If any provision of this ordinance or the application thereof to any person, persons, or circumstances is held invalid, the invalidity does not affect the other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are severable.

SECTION 5. Ordinance material to be repeal is bracketed. New ordinance material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Kaua'i County Code 1987, as amended, the brackets, bracketed material, and underscoring shall not be included.

SECTION 6. This amendment shall take effect upon its approval.

Introduced by:


TIM BYNUM
(By Request)

DATE OF INTRODUCTION:

March 27, 2014

Lihu'e, Kaua'i, Hawai'i


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CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2539, which was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on March 27, 2014, by the following vote:

FOR PASSAGE:	Bynum, Chock, Hooser, Kagawa, Yukimura, Furfaro	TOTAL – 6,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Rapozo	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Līhu'e, Hawai'i
March 28, 2014


Ricky Watanabe
County Clerk, County of Kaua'i